

agencies assigned under OMB Circular No. A-21. NASA is required to apply the negotiated rate for all grants awarded.

(iii) *Cost sharing.* NASA may accept cost sharing when voluntarily offered, and all awards including cost-sharing are subject to §§1260.13(c) and 1260.123. The amount of cost sharing will not be a factor in determining whether to select a proposal for award. However, recipients may be requested to secure nonfederal matching funds equal to the program portion to training and education grants.

(2) *Multiple year grants.* In accordance with NASA policy to foster continuity of research, multiple year grant proposals are encouraged, where appropriate, for a period generally up to three years. Continuing research programs will be subject to peer evaluation at least once every three years. Proposals for multiple year grants shall describe the entire research project and include a complete budget for year one and separate estimates for each subsequent year (see § 1260.13(b)).

(c) *Certifications and assurances* shall be made in accordance with § 1260.117, as follows:

(1) *Civil rights requirements.* Annually, recipients must furnish assurances on NASA Form 1206 of compliance with civil rights statutes specified in 14 CFR parts 1250 through 1252.

(2) *Debarment and suspension, drug-free workplace, and lobbying.* NASA grants are subject to the provisions of: 14 CFR part 1265, Governmentwide Debarment and Suspension (Nonprocurement); Governmentwide requirements for Drug-Free Workplace (Grants), unless excepted by § 1265.110 or § 1265.610; and 14 CFR part 1271 "New Restrictions on Lobbying." These certifications are required to be submitted with each proposal, including extensions. NASA does not require any particular form or format, but does require specific language.

§ 1260.11 Evaluation and selection.

(a) *General.* Technical evaluation of proposals will be conducted by the cognizant NASA technical office and may be based on peer reviews.

(b) *Under NRA's, AO's, CAN's, and other BAA's.* The selecting official will

furnish the grant officer a signed selection statement and a technical evaluation based on the evaluation criteria stated in the NRA, AO, CAN, or BAA. If a proposal is not selected, the proposer will be notified in accordance with the NRA, AO, CAN, or BAA.

(c) *Under unsolicited proposals.* (1) The evaluation of unsolicited proposals must consider:

(i) If the subject of the proposal is available to NASA from another source without restriction.

(ii) If the proposal closely resembles a pending competitive acquisition or a current, open BAA's under which the unsolicited proposal could be evaluated.

(iii) If the research proposed demonstrates an innovative and unique method, approach, or concept.

(iv) The proposals overall scientific or technical merit.

(v) The potential contribution to NASA's mission.

(vi) The offeror's capabilities, related experience, facilities, techniques, or unique combinations of these which are integral factors for achieving the proposal objectives.

(vii) The qualifications, capabilities, and experience of the proposed principal investigator, team leader, or key personnel who are critical in achieving the proposal objectives.

(2) An unsolicited proposal recommended for acceptance shall be supported by a Justification for Acceptance of an Unsolicited Proposal (JAUP) prepared by the cognizant technical office. The JAUP shall be submitted for the approval of the grant officer after review and concurrence at a level above the technical officer. The grant officer's signature on the award document will indicate approval.

(3) NASA will promptly notify in writing each organization that submitted a proposal that will not be funded. Proposals will be returned only when requested.

(d) *Equipment justification on travel justification.* Unless the proposal is selected using a competitive process, for example, a NASA Research Announcement or a Cooperative Agreement Notice, these documents will be submitted by the technical office for grant officer approval when more than half of

the proposed budget is for equipment or travel and associated indirect cost. The justification shall describe the extent to which the equipment or travel is necessary.

(e) *Proposal budget evaluation.* (1) The technical officer will review the recipients' estimated cost for conformance to program requirements and funds availability. The results of this review shall be recorded in Column B of the proposed Budget Summary Form (Exhibit C). New budgets are not required when the program office recommended funding is within 20 percent of the proposed amount, provided specific proposed objectives have not been added or deleted. However, when equipment and/or subcontracts are involved, the cognizant program office is required to identify the cost element(s) affected by the change in funding level.

(2) The grant officer will review the budget, and any changes made by the technical officer, to identify any item which may be unallowable under the cost principles, or which appear unreasonable or unnecessary. The grant officer will complete Column C of the proposed budget after discussing significant changes with the recipient. Any request for details should be limited.

(3) The grant officer will address requests for direct charge of general purchase equipment in a negotiation summary and indicate whether the proposed purchase is approved as a direct cost.

(f) *Incremental funding.* NASA reserves the right to either fully fund or incrementally fund grants. Grants with anticipated annual funding exceeding \$50,000 may be funded for less than the amount stated in the proposal, provided:

(1) Two increments per grant year are authorized. The second increment will be the balance of funding for the year.

(2) The special condition § 1260.53, Incremental Funding, is included in the grant.

(g) *Printing, binding, and duplicating.* Proposals for efforts that involve printing, binding, and duplicating in excess of 25,000 pages are subject to the Government Printing and Binding Regulations, No. 26, February 1990, S. Pub. 101-9, U.S. Government Printing Office,

Washington, DC 20402, (202) 512-1800, published by the Congressional Joint Committee on Printing. The technical office will refer such proposals to the Installation Central Printing Management Officer (ICPMO). The grant officer will be advised in writing of the results of the ICPMO review.

(h) *Rights in data.* Section 1260.29 is adequate only for grants for basic or applied research where the principal purpose (or only expected NASA involvement) is the publication or dissemination of the results, such as in journals or NASA publications (see § 1260.21).

(i) *Clean Air and Federal Water Pollution Control Acts.* (1) By accepting a grant that contains § 1260.33, the recipient agrees that the expenditure of grant funds is in compliance with the Acts.

(2) The Administrator may approve exemptions from this prohibition under certain circumstances under E.O. 11738. Requests for exemptions or renewals thereof shall be made to the Office of Procurement, NASA Headquarters, Contract Management Division (Code HK), Washington, DC 20546.

[61 FR 38059, July 23, 1996, as amended at 62 FR 63452, Dec. 1, 1997]

§ 1260.12 Choice of award instrument.

(a) This section and § 1260.111 provide guidance on the appropriate choice of award instruments consistent with 31 U.S.C. 6301 to 6308. Throughout § 1260.12, the term *grant* does not include "cooperative agreements."

(b) A procurement contract is a mutually binding legal relationship obligating the seller to furnish supplies or services (including construction), and the buyer pays for them.

(1) The principal purpose of a procurement contract is to acquire, for NASA's direct use or benefit, a well-defined, specific effort clearly required for the accomplishment of a scheduled NASA mission or project.

(2) If it is determined that a procurement contract is the appropriate type of funding instrument to meet NASA's purposes, the procurement shall be conducted under the FAR and the NFS.

(c) A grant shall be used as the legal instrument to reflect a relationship between NASA and a recipient whenever